

AMENDED IN SENATE APRIL 25, 2011

SENATE BILL

No. 490

Introduced by Senator Hancock

February 17, 2011

An act to amend Sections 830.2, 830.5, 830.11, 6125, ~~6126~~, 6126.2, 6126.3, 6126.4, 6126.5, ~~6126.6~~, 6127.3, 6127.4, ~~6128~~, 6131, 6132, and ~~6133~~ ~~6140~~ of, to add Sections 6127.5 and 6127.6 to, and to amend the heading of Chapter 8.2 (commencing with Section 6125) of Title 7 of Part 3 of, to repeal Sections ~~6126.1~~, ~~6127.1~~, and ~~6129~~ 6051, 6126.1, 6126.6, 6127.1, 6128, 6129, and 6133 of, and to repeal and add Section 6126 of, the Penal Code, relating to corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 490, as amended, Hancock. Corrections: Office of the Inspector General.

(1) Existing law creates the independent Office of the Inspector General and provides that it is not a subdivision of any other government entity. The Inspector General and certain other employees of the office are peace officers provided that the primary duty of these peace officers is conducting audits of investigatory practices and other audits, as well as conducting investigations, of the Department of Corrections and Rehabilitation, Division of Juvenile Justice, and the Board of Parole Hearings.

This bill would remove the Inspector General and the other employees from peace officer status. *The bill would eliminate the Office of the Inspector General and replace it with its successor the Office of Independent Correctional Oversight and make conforming changes. The bill would require the Governor to appoint a director for the office, as specified, and would authorize the ~~Inspector General~~ director and*

certain other employees to exercise the powers of arrest and serving warrants, as provided.

(2) Existing law requires the Inspector General to, among other things, review departmental policy and procedures, conduct audits of investigatory practices and other audits, be responsible for contemporaneous oversight of internal affairs investigations and the disciplinary process, and conduct investigations of the department, and audit each warden of an institution one year after his or her appointment and each correctional institution at least once every 4 years. *Existing law establishes within the Office of the Inspector General a Bureau of Independent Review (BIR). Existing law requires the Inspector General to evaluate and determine the qualifications of each candidate for warden or superintendent, as specified.*

~~The bill would revise and recast the duties of the Inspector General by, among other things, requiring him or her to conduct, report on, and track the resolution of, financial and performance audits of the Department of Corrections and Rehabilitation's programs and functions, conduct special reviews and assessments of the department's programs and activities using methods other than traditional audit and investigative disciplines, inspect all correctional, medical, and other facilities of the department, and advise the department, the Governor, and the Legislature in the development of performance measures, standards, and procedures for the evaluation of department programs.~~

~~The bill would require that by December 31, 2012, the Inspector General establish, adopt, and implement regulations and procedures regarding the review of the qualifications of candidates for the position of warden or superintendent. The bill would also require that by December 31, 2012, the Inspector General adopt regulations and procedures regarding how certain issues, investigations, and communications before the Inspector General would be considered and selected for audit, special review, inspection, or advisement.~~

This bill would continue the purpose and duties of the BIR through the Office of Independent Correctional Oversight and require the Office of Independent Correctional Oversight to perform the function of evaluating candidates for warden or superintendent, as specified. The bill would authorize the office, pursuant to adoption of regulations and procedures, to conduct oversight reviews pertaining to specified significant correctional issues, including, among others, employee use of force, inmate-patient health care delivery, and security procedures.

(3) Existing law makes it a misdemeanor for certain persons that have assisted the Inspector General in the course of any audit or investigation or that have been furnished a draft copy of any report for comment or review to divulge or make known in any manner not expressly permitted by law any particulars of any record, document, or information the disclosure of which is restricted by law from release to the public.

This bill would delete the reference to any audit or investigation and instead make the misdemeanor applicable to certain persons ~~that~~ *who* have assisted the ~~Inspector General~~ *director* in the course of ~~its~~ *his or her* work. Because the bill would expand the scope of a crime, it would impose a state-mandated local program.

(4) Existing law requires the Inspector General, upon receiving a complaint of retaliation from an employee against a member of management at the department, to commence an inquiry into the complaint and conduct a formal investigation where a legally cognizable cause of action is presented, as provided.

The bill would delete those provisions.

The bill would also delete obsolete provisions and make conforming changes.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~The bill would delete those provisions.~~

~~The bill would also delete obsolete provisions and make conforming changes.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 830.2 of the Penal Code is amended to
2 read:

3 830.2. The following persons are peace officers whose authority
4 extends to any place in the state:

5 (a) Any member of the Department of the California Highway
6 Patrol including those members designated under subdivision (a)
7 of Section 2250.1 of the Vehicle Code, provided that the primary

1 duty of the peace officer is the enforcement of any law relating to
2 the use or operation of vehicles upon the highways, or laws
3 pertaining to the provision of police services for the protection of
4 state officers, state properties, and the occupants of state properties,
5 or both, as set forth in the Vehicle Code and Government Code.

6 (b) A member of the University of California Police Department
7 appointed pursuant to Section 92600 of the Education Code,
8 provided that the primary duty of the peace officer shall be the
9 enforcement of the law within the area specified in Section 92600
10 of the Education Code.

11 (c) A member of the California State University Police
12 Departments appointed pursuant to Section 89560 of the Education
13 Code, provided that the primary duty of the peace officer shall be
14 the enforcement of the law within the area specified in Section
15 89560 of the Education Code.

16 (d) (1) Any member of the Office of Correctional Safety of the
17 Department of Corrections and Rehabilitation, provided that the
18 primary duties of the peace officer shall be the investigation or
19 apprehension of inmates, wards, parolees, parole violators, or
20 escapees from state institutions, the transportation of those persons,
21 the investigation of any violation of criminal law discovered while
22 performing the usual and authorized duties of employment, and
23 the coordination of those activities with other criminal justice
24 agencies.

25 (2) Any member of the Office of Internal Affairs of the
26 Department of Corrections and Rehabilitation, provided that the
27 primary duties shall be criminal investigations of Department of
28 Corrections and Rehabilitation personnel and the coordination of
29 those activities with other criminal justice agencies. For purposes
30 of this subdivision, the member of the Office of Internal Affairs
31 shall possess certification from the Commission on Peace Officer
32 Standards and Training for investigators, or have completed
33 training pursuant to Section 6126.1 of the Penal Code.

34 (e) Employees of the Department of Fish and Game designated
35 by the director, provided that the primary duty of those peace
36 officers shall be the enforcement of the law as set forth in Section
37 856 of the Fish and Game Code.

38 (f) Employees of the Department of Parks and Recreation
39 designated by the director pursuant to Section 5008 of the Public
40 Resources Code, provided that the primary duty of the peace officer

1 shall be the enforcement of the law as set forth in Section 5008 of
2 the Public Resources Code.

3 (g) The Director of Forestry and Fire Protection and employees
4 or classes of employees of the Department of Forestry and Fire
5 Protection designated by the director pursuant to Section 4156 of
6 the Public Resources Code, provided that the primary duty of the
7 peace officer shall be the enforcement of the law as that duty is
8 set forth in Section 4156 of the Public Resources Code.

9 (h) Persons employed by the Department of Alcoholic Beverage
10 Control for the enforcement of Division 9 (commencing with
11 Section 23000) of the Business and Professions Code and
12 designated by the Director of Alcoholic Beverage Control, provided
13 that the primary duty of any of these peace officers shall be the
14 enforcement of the laws relating to alcoholic beverages, as that
15 duty is set forth in Section 25755 of the Business and Professions
16 Code.

17 (i) Marshals and police appointed by the Board of Directors of
18 the California Exposition and State Fair pursuant to Section 3332
19 of the Food and Agricultural Code, provided that the primary duty
20 of the peace officers shall be the enforcement of the law as
21 prescribed in that section.

22 SEC. 2. Section 830.5 of the Penal Code is amended to read:

23 830.5. The following persons are peace officers whose authority
24 extends to any place in the state while engaged in the performance
25 of the duties of their respective employment and for the purpose
26 of carrying out the primary function of their employment or as
27 required under Sections 8597, 8598, and 8617 of the Government
28 Code. Except as specified in this section, these peace officers may
29 carry firearms only if authorized and under those terms and
30 conditions specified by their employing agency:

31 (a) A parole officer of the Department of Corrections or the
32 Department of the Youth Authority, probation officer, deputy
33 probation officer, or a board coordinating parole agent employed
34 by the Youthful Offender Parole Board. Except as otherwise
35 provided in this subdivision, the authority of these parole or
36 probation officers shall extend only as follows:

37 (1) To conditions of parole or of probation by any person in this
38 state on parole or probation.

39 (2) To the escape of any inmate or ward from a state or local
40 institution.

1 (3) To the transportation of persons on parole or probation.

2 (4) To violations of any penal provisions of law which are
3 discovered while performing the usual or authorized duties of his
4 or her employment.

5 (5) To the rendering of mutual aid to any other law enforcement
6 agency.

7 For the purposes of this subdivision, “parole agent” shall have
8 the same meaning as parole officer of the Department of
9 Corrections or of the Department of the Youth Authority.

10 Any parole officer of the Department of Corrections, the
11 Department of the Youth Authority, or the Youthful Offender
12 Parole Board is authorized to carry firearms, but only as determined
13 by the director on a case-by-case or unit-by-unit basis and only
14 under those terms and conditions specified by the director or
15 chairperson. The Department of the Youth Authority shall develop
16 a policy for arming peace officers of the Department of the Youth
17 Authority who comprise “high-risk transportation details” or
18 “high-risk escape details” no later than June 30, 1995. This policy
19 shall be implemented no later than December 31, 1995.

20 The Department of the Youth Authority shall train and arm those
21 peace officers who comprise tactical teams at each facility for use
22 during “high-risk escape details.”

23 (b) A correctional officer employed by the Department of
24 Corrections or any employee of the Department of the Youth
25 Authority having custody of wards or any employee of the
26 Department of Corrections designated by the Director of
27 Corrections or any correctional counselor series employee of the
28 Department of Corrections or any medical technical assistant series
29 employee designated by the Director of Corrections or designated
30 by the Director of Corrections and employed by the State
31 Department of Mental Health or employee of the Board of Prison
32 Terms designated by the Secretary of the Youth and Adult
33 Correctional Agency or employee of the Department of the Youth
34 Authority designated by the Director of the Youth Authority or
35 any superintendent, supervisor, or employee having custodial
36 responsibilities in an institution operated by a probation
37 department, or any transportation officer of a probation department.

38 (c) The following persons may carry a firearm while not on
39 duty: a parole officer of the Department of Corrections or the
40 Department of the Youth Authority, a correctional officer or

1 correctional counselor employed by the Department of Corrections
2 or any employee of the Department of the Youth Authority having
3 custody of wards or any employee of the Department of Corrections
4 designated by the Director of Corrections. A parole officer of the
5 Youthful Offender Parole Board may carry a firearm while not on
6 duty only when so authorized by the chairperson of the board and
7 only under the terms and conditions specified by the chairperson.
8 Nothing in this section shall be interpreted to require licensure
9 pursuant to Section 25400. The director or chairperson may deny,
10 suspend, or revoke for good cause a person's right to carry a
11 firearm under this subdivision. That person shall, upon request,
12 receive a hearing, as provided for in the negotiated grievance
13 procedure between the exclusive employee representative and the
14 Department of Corrections, the Department of the Youth Authority,
15 or the Youthful Offender Parole Board, to review the director's or
16 the chairperson's decision.

17 (d) Persons permitted to carry firearms pursuant to this section,
18 either on or off duty, shall meet the training requirements of Section
19 832 and shall qualify with the firearm at least quarterly. It is the
20 responsibility of the individual officer or designee to maintain his
21 or her eligibility to carry concealable firearms off duty. Failure to
22 maintain quarterly qualifications by an officer or designee with
23 any concealable firearms carried off duty shall constitute good
24 cause to suspend or revoke that person's right to carry firearms
25 off duty.

26 (e) The Department of Corrections shall allow reasonable access
27 to its ranges for officers and designees of either department to
28 qualify to carry concealable firearms off duty. The time spent on
29 the range for purposes of meeting the qualification requirements
30 shall be the person's own time during the person's off-duty hours.

31 (f) The Director of Corrections shall promulgate regulations
32 consistent with this section.

33 (g) "High-risk transportation details" and "high-risk escape
34 details" as used in this section shall be determined by the Director
35 of the Youth Authority, or his or her designee. The director, or his
36 or her designee, shall consider at least the following in determining
37 "high-risk transportation details" and "high-risk escape details":
38 protection of the public, protection of officers, flight risk, and
39 violence potential of the wards.

1 (h) “Transportation detail” as used in this section shall include
2 transportation of wards outside the facility, including, but not
3 limited to, court appearances, medical trips, and interfacility
4 transfers.

5 SEC. 3. Section 830.11 of the Penal Code is amended to read:

6 830.11. (a) The following persons are not peace officers but
7 may exercise the powers of arrest of a peace officer as specified
8 in Section 836 and the power to serve warrants as specified in
9 Sections 1523 and 1530 during the course and within the scope of
10 their employment, if they receive a course in the exercise of those
11 powers pursuant to Section 832. The authority and powers of the
12 persons designated under this section shall extend to any place in
13 the state:

14 (1) Persons employed by the Department of Financial
15 Institutions designated by the Commissioner of Financial
16 Institutions, provided that the primary duty of these persons shall
17 be the enforcement of, and investigations relating to, the provisions
18 of law administered by the Commissioner of Financial Institutions.

19 (2) Persons employed by the Department of Real Estate
20 designated by the Real Estate Commissioner, provided that the
21 primary duty of these persons shall be the enforcement of the laws
22 set forth in Part 1 (commencing with Section 10000) and Part 2
23 (commencing with Section 11000) of Division 4 of the Business
24 and Professions Code. The Real Estate Commissioner may
25 designate persons under this section, who at the time of their
26 designation, are assigned to the Special Investigations Unit,
27 internally known as the Crisis Response Team.

28 (3) Persons employed by the State Lands Commission
29 designated by the executive officer, provided that the primary duty
30 of these persons shall be the enforcement of the law relating to the
31 duties of the State Lands Commission.

32 (4) Persons employed as investigators of the Investigations
33 Bureau of the Department of Insurance, who are designated by the
34 Chief of the Investigations Bureau, provided that the primary duty
35 of these persons shall be the enforcement of the Insurance Code
36 and other laws relating to persons and businesses, licensed and
37 unlicensed by the Department of Insurance, who are engaged in
38 the business of insurance.

39 (5) Persons employed as investigators and investigator
40 supervisors of the Consumer Services Division or the Rail Safety

1 and Carrier Division of the Public Utilities Commission who are
2 designated by the commission's executive director and approved
3 by the commission, provided that the primary duty of these persons
4 shall be the enforcement of the law as that duty is set forth in
5 Section 308.5 of the Public Utilities Code.

6 (6) (A) Persons employed by the State Board of Equalization,
7 Investigations Division, who are designated by the board's
8 executive director, provided that the primary duty of these persons
9 shall be the enforcement of laws administered by the State Board
10 of Equalization.

11 (B) Persons designated pursuant to this paragraph are not entitled
12 to peace officer retirement benefits.

13 (7) Persons employed by the Department of Food and
14 Agriculture and designated by the Secretary of Food and
15 Agriculture as investigators, investigator supervisors, and
16 investigator managers, provided that the primary duty of these
17 persons shall be enforcement of, and investigations relating to, the
18 Food and Agricultural Code or Division 5 (commencing with
19 Section 12001) of the Business and Professions Code.

20 ~~(8) The Inspector General, pursuant to Section 6125, the Chief~~
21 ~~Deputy Inspector General, Chief Assistant Inspectors General,~~
22 ~~Deputy Inspectors General In Charge, Senior Deputy Inspectors~~
23 ~~General, Deputy Inspectors General, Senior Assistant Inspectors~~
24 ~~General, Special Assistant Inspectors General, and those employees~~
25 ~~of the Inspector General as designated by the Inspector General,~~
26 ~~provided that the primary duty of these persons shall be the~~
27 ~~enforcement of the law relating to the duties of the Office of the~~
28 ~~Inspector General.~~

29 *(8) The Director of the Office of Independent Correctional*
30 *Oversight and those employees of the office as designated by the*
31 *director, provided that the primary duty of those persons shall be*
32 *the enforcement of the law relating to the duties of the Office of*
33 *Independent Correctional Oversight.*

34 (b) Notwithstanding any other provision of law, persons
35 designated pursuant to this section may not carry firearms.

36 (c) Persons designated pursuant to this section shall be included
37 as "peace officers of the state" under paragraph (2) of subdivision
38 (c) of Section 11105 for the purpose of receiving state summary
39 criminal history information and shall be furnished that information

1 on the same basis as peace officers of the state designated in
2 paragraph (2) of subdivision (c) of Section 11105.

3 *SEC. 4. Section 6051 of the Penal Code is repealed.*

4 ~~6051. The Inspector General may conduct a management~~
5 ~~review audit of any warden in the Department of Corrections and~~
6 ~~Rehabilitation or superintendent in the Division of Juvenile Justice.~~
7 ~~The management review audit shall include, but not be limited to,~~
8 ~~issues relating to personnel, training, investigations, and financial~~
9 ~~matters. Each management review audit shall include an assessment~~
10 ~~of the maintenance of the facility managed by the warden or~~
11 ~~superintendent. The audit report shall be submitted to the secretary~~
12 ~~of the department for evaluation and for any response deemed~~
13 ~~necessary. Any Member of the Legislature or the public may~~
14 ~~request and shall be provided with a copy of any audit by the~~
15 ~~Inspector General, including a management review audit or a~~
16 ~~special audit or review. A report that involves potential criminal~~
17 ~~investigations or prosecution or security practices and procedures~~
18 ~~shall be considered confidential, and its disclosure shall not be~~
19 ~~required under this section.~~

20 *SEC. 5. The heading of Chapter 8.2 (commencing with Section*
21 *6125) of Title 7 of Part 3 of the Penal Code is amended to read:*

22
23 CHAPTER 8.2. OFFICE OF ~~THE INSPECTOR GENERAL~~
24 INDEPENDENT CORRECTIONAL OVERSIGHT
25

26 ~~SEC. 4.~~

27 *SEC. 6. Section 6125 of the Penal Code is amended to read:*

28 6125. (a) There is hereby created the ~~independent Office of~~
29 ~~the Inspector General Office of Independent Correctional Oversight~~
30 which shall not be a subdivision of any other governmental entity.

31 (b) The purpose of the Office of ~~the Inspector General shall be~~
32 ~~to promote Independent Correctional Oversight shall be to perform~~
33 *its functions as prescribed by law in a manner that promotes*
34 management, fiscal and program competency, and accountability
35 in the state correctional system in furtherance of public safety and
36 evidence-based correctional practices.

37 (c) The Governor shall appoint, subject to confirmation by the
38 Senate, ~~the Inspector General to a six-year term. The Inspector~~
39 ~~General a director for the office, who shall hold office for a~~

1 *four-year term. The director may not be removed from office*
2 *during that term, except for good cause.*

3 ~~(d) The Inspector General~~ *director shall be deemed to be a*
4 *department head for the purpose of Section 11189 of the*
5 *Government Code in connection with any investigation or audit*
6 *conducted pursuant to this chapter. The Inspector General shall*
7 *have authority to hire or retain counsel to provide confidential*
8 *advice during audits and investigations. If the Attorney General*
9 *has a conflict of interest in representing the Inspector General in*
10 *any litigation, the Inspector General shall have authority to hire*
11 *or retain counsel to represent the Inspector General. work*
12 *conducted pursuant to this chapter.*

13 *(e) For purposes of this chapter, “director” means the Director*
14 *of the Office of Independent Correctional Oversight.*

15 ~~SEC. 5. Section 6126 of the Penal Code is amended to read:~~

16 ~~6126. The Inspector General shall, in consultation with the~~
17 ~~Department of Finance, develop a methodology for producing a~~
18 ~~workload budget to be used for annually adjusting the budget of~~
19 ~~the Office of the Inspector General, beginning with the budget for~~
20 ~~the 2005–06 fiscal year.~~

21 ~~SEC. 7. Section 6126 of the Penal Code is repealed.~~

22 ~~6126. (a) (1) The Inspector General shall review departmental~~
23 ~~policy and procedures, conduct audits of investigatory practices~~
24 ~~and other audits, be responsible for contemporaneous oversight of~~
25 ~~internal affairs investigations and the disciplinary process, and~~
26 ~~conduct investigations of the Department of Corrections and~~
27 ~~Rehabilitation, as requested by either the Secretary of the~~
28 ~~Department of Corrections and Rehabilitation or a Member of the~~
29 ~~Legislature, pursuant to the approval of the Inspector General~~
30 ~~under policies to be developed by the Inspector General. The~~
31 ~~Inspector General may, under policies developed by the Inspector~~
32 ~~General, initiate an investigation or an audit on his or her own~~
33 ~~accord.~~

34 ~~(2) The Inspector General shall audit each warden of an~~
35 ~~institution one year after his or her appointment, and shall audit~~
36 ~~each correctional institution at least once every four years. Each~~
37 ~~audit of a warden shall include, but not be limited to, issues relating~~
38 ~~to personnel, training, investigations, and financial matters. Each~~
39 ~~four-year audit shall include an assessment of the maintenance of~~
40 ~~the facility managed by the warden. The audit report shall include~~

1 all significant findings of the Inspector General's assessment of
2 facility maintenance. These audit reports shall be provided to the
3 Legislature and shall be made public. The requirements of this
4 paragraph shall be phased in by the Inspector General so that they
5 are fully met by July 1, 2009.

6 (b) Upon completion of an investigation or audit, the Inspector
7 General shall provide a response to the requester.

8 (c) The Inspector General shall, during the course of an
9 investigatory audit, identify areas of full and partial compliance,
10 or noncompliance, with departmental investigatory policies and
11 procedures, specify deficiencies in the completion and
12 documentation of investigatory processes, and recommend
13 corrective actions, including, but not limited to, additional training
14 with respect to investigatory policies, additional policies, or changes
15 in policy, as well as any other findings or recommendations that
16 the Inspector General deems appropriate.

17 (d) The Inspector General, pursuant to Section 6126.6, shall
18 review the Governor's candidates for appointment to serve as
19 warden for the state's adult correctional institutions and as
20 superintendents for the state's juvenile facilities.

21 (e) The Inspector General shall, in consultation with the
22 Department of Finance, develop a methodology for producing a
23 workload budget to be used for annually adjusting the budget of
24 the Office of the Inspector General, beginning with the budget for
25 the 2005-06 fiscal year.

26 *SEC. 8. Section 6126 is added to the Penal Code, to read:*

27 *6126. (a) The Legislature finds and declares that the purpose*
28 *and duties of the Bureau of Independent Review, previously existing*
29 *within the Office of the Inspector General and repealed by this*
30 *act, shall continue through the Office of Independent Correctional*
31 *Oversight as created by this act.*

32 *(b) The Office of Independent Correctional Oversight shall*
33 *perform the following duties:*

34 *(1) Contemporaneous public oversight of the Department of*
35 *Corrections and Rehabilitation investigations conducted by the*
36 *Department of Corrections and Rehabilitation's Office of Internal*
37 *Affairs.*

38 *(2) Advising the public regarding the adequacy of each*
39 *investigation, and whether discipline of the subject of the*
40 *investigation is warranted.*

1 (3) *Issuing regular reports, no less than annually, to the*
2 *Governor and the Legislature summarizing its recommendations*
3 *concerning its oversight of the Department of Corrections and*
4 *Rehabilitation allegations of internal misconduct and use of force.*

5 (4) *Issuing regular reports, no less than semiannually,*
6 *summarizing its oversight of Office of Internal Affairs*
7 *investigations pursuant to paragraphs (1) and (2). The reports*
8 *shall include, but not be limited to, the following:*

9 (A) *Data on the number, type, and disposition of complaints*
10 *made against correctional officers and staff.*

11 (B) *A synopsis of each matter reviewed by the office.*

12 (C) *An assessment of the quality of the investigation, the*
13 *appropriateness of any disciplinary charges, the office's*
14 *recommendations regarding the disposition in the case and when*
15 *founded, the level of discipline afforded, and the degree to which*
16 *the agency's authorities agreed with the office's recommendations*
17 *regarding disposition and level of discipline.*

18 (D) *The report of any settlement and whether the office*
19 *concurred with the settlement.*

20 (E) *The extent to which any discipline was modified after*
21 *imposition.*

22 (F) *The reports shall be in a form that does not identify the*
23 *agency employees involved in the alleged misconduct.*

24 (G) *The reports shall be posted on the office's Internet Web site*
25 *and otherwise made available to the public upon their release to*
26 *the Governor and the Legislature.*

27 (H) *A report pursuant to this subdivision shall be submitted in*
28 *compliance with Section 9795 of the Government Code.*

29 (5) *Reviewing the qualifications of a candidate for warden or*
30 *superintendent as follows:*

31 (A) *Prior to filling a vacancy for warden by appointment*
32 *pursuant to Section 6050, or superintendent pursuant to Section*
33 *1049 of the Welfare and Institutions Code, the Governor shall first*
34 *submit to the Office of Independent Correctional Oversight the*
35 *names of candidates for the position of warden or superintendent*
36 *for review of their qualifications.*

37 (B) *Upon receipt of the names of those candidates and their*
38 *completed personal data questionnaires, the director shall employ*
39 *appropriate confidential procedures to evaluate and determine*
40 *the qualifications of each candidate with regard to his or her ability*

1 to discharge the duties of the office to which the appointment or
2 nomination is made.

3 (C) Within 45 days of submission by the Governor of those
4 names, the director shall advise, in confidence to the Governor,
5 his or her recommendation whether the candidate is exceptionally
6 well qualified, well qualified, qualified, or not qualified and the
7 reasons therefor; and may report, in confidence, any other
8 information that the director deems pertinent to the qualifications
9 of the candidate.

10 (D) In reviewing the qualifications of a candidate for the
11 position of warden or superintendent, the director shall consider;
12 among other appropriate factors, the candidate's experience in
13 effectively managing correctional facilities and inmate or ward
14 populations; ability to deal effectively with employees, detained
15 persons, and other interested persons in addressing management,
16 confinement, and safety issues in an effective, fair, and professional
17 manner; and knowledge of correctional best practices.

18 (E) The Office of Independent Correctional Oversight shall
19 establish and promulgate rules and procedures to implement this
20 paragraph no later than December 31, 2012. The director shall
21 establish and adopt rules and procedures regarding the review of
22 the qualifications of candidates for the position of warden or
23 superintendent. Those rules, regulations, and procedures shall
24 establish appropriate, confidential methods for disclosing to the
25 candidate the subject matter of substantial and credible adverse
26 allegations received regarding the candidate's reputation and
27 integrity, which, unless rebutted, would be determinative of the
28 candidate's unsuitability for appointment. No rule or procedure
29 shall be adopted that permits the disclosure to the candidate of
30 information from which the candidate may infer the source, and
31 no information shall either be disclosed to the candidate or be
32 obtainable by any process that would jeopardize the confidentiality
33 of communications from persons whose opinions have been sought
34 on the candidate's qualifications.

35 (F) All communications, written, verbal, or otherwise, of and
36 to the Governor, the Governor's authorized agents or employees,
37 including, but not limited to, the Governor's Legal Affairs
38 Secretary and Appointments Secretary, or of and to the director
39 in furtherance of the purposes of this section are absolutely
40 privileged from disclosure and confidential, and any

1 *communication made in the discretion of the Governor or the*
2 *director with a candidate or person providing information in*
3 *furtherance of the purposes of this section shall not constitute a*
4 *waiver of the privilege or a breach of confidentiality.*

5 *(G) When the Governor has appointed a person to the position*
6 *of warden or superintendent who has been found not qualified by*
7 *the director, the director shall make public that finding, after due*
8 *notice to the appointee of his or her intention to do so. That notice*
9 *and disclosure shall not constitute a waiver of privilege or breach*
10 *of confidentiality with respect to communications of or to the*
11 *director concerning the qualifications of the appointee.*

12 *(H) No person or entity shall be liable for any injury caused by*
13 *any act or failure to act, be it negligent, intentional, discretionary,*
14 *or otherwise, in the furtherance of the purposes of this section,*
15 *including, but not limited to, providing or receiving any*
16 *information, making any recommendations, and giving any reasons*
17 *therefor.*

18 *(I) As used in this section, "Office of Independent Correctional*
19 *Oversight" or "office" includes employees and agents of the Office*
20 *of Independent Correctional Oversight and the director.*

21 *(J) At any time prior to the receipt of the review from the Office*
22 *of Independent Correctional Oversight specified in subdivision*
23 *(b), the Governor may withdraw the name of any person submitted*
24 *to the Office of Independent Correctional Oversight for evaluation*
25 *pursuant to this section.*

26 *(K) No candidate for the position of warden or superintendent*
27 *may be appointed until the director has advised the Governor*
28 *pursuant to this section, or until 45 days have elapsed after*
29 *submission of the candidate's name to the Office of Independent*
30 *Correctional Oversight, whichever occurs earlier. The requirement*
31 *of this subparagraph shall not apply to any vacancy in the position*
32 *of warden or superintendent occurring within the days preceding*
33 *the expiration of the Governor's term of office; provided, however,*
34 *that, with respect to those vacancies, the Governor shall be*
35 *required to submit any candidate's name to the Office of*
36 *Independent Correctional Oversight in order to provide the office*
37 *an opportunity, if time permits, to review and make a report.*

38 *(L) Nothing in this section shall be construed as imposing an*
39 *additional requirement for an appointment or nomination to the*
40 *position of warden or superintendent, nor shall anything in this*

1 *section be construed as adding any additional qualifications for*
2 *the position of warden or superintendent.*

3 *(c) Subject to subdivision (d), the Office of Independent*
4 *Correctional Oversight may conduct oversight reviews pertaining*
5 *to the following significant correctional issues relating to the*
6 *Department of Corrections and Rehabilitation:*

7 *(1) Security procedures, including contraband interdiction.*

8 *(2) Inmate, ward, and parolee administrative appeals and*
9 *grievances.*

10 *(3) Employee use of force.*

11 *(4) Prison Rape Elimination Act procedures.*

12 *(5) Inmate-patient health care delivery.*

13 *(d) Oversight reviews conducted pursuant to subdivision (c)*
14 *may be conducted only pursuant to the adoption of regulations*
15 *and procedures for determining how the issues before the office*
16 *shall be considered and selected.*

17 ~~SEC. 6.~~

18 ~~SEC. 9.~~ Section 6126.1 of the Penal Code is repealed.

19 ~~SEC. 7.~~

20 ~~SEC. 10.~~ Section 6126.2 of the Penal Code is amended to read:

21 6126.2. ~~The Inspector General~~ *director* shall not hire any person
22 known to be directly or indirectly involved in an open internal
23 affairs investigation being conducted by any federal, state, or local
24 law enforcement agency or the ~~Inspector General~~ *Office of*
25 *Independent Correctional Oversight.*

26 ~~SEC. 8.~~

27 ~~SEC. 11.~~ Section 6126.3 of the Penal Code is amended to read:

28 6126.3. (a) ~~The Inspector General~~ *director* shall not destroy
29 any papers or memoranda used to support its work within three
30 years after a report is released.

31 (b) Except as provided in subdivision (c), all books, papers,
32 records, and correspondence of the office *and its predecessor, the*
33 *Office of the Inspector General*, pertaining to its work are public
34 records subject to Chapter 3.5 (commencing with Section 6250)
35 of Division 7 of Title 1 of the Government Code and shall be filed
36 at any of the regularly maintained offices of the *Office of*
37 *Independent Correctional Oversight or its predecessor, the Office*
38 *of the Inspector General.*

39 (c) The following books, papers, records, and correspondence
40 of the *office and its predecessor, the Office of the Inspector*

General, pertaining to its work are not public records subject to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code, nor shall they be subject to discovery pursuant to any provision of Title 3 (commencing with Section 1985) of Part 4 of the Code of Civil Procedure or Chapter 7 (commencing with Section 19570) of Part 2 of Division 5 of Title 2 of the Government Code in any manner:

(1) All reports, papers, correspondence, memoranda, electronic communications, or other documents that are otherwise exempt from disclosure pursuant to the provisions of subdivision (d) of Section 6126.5, Section 6126.6, subdivision (i) of Section 6127.5, subdivision (d) of Section 6128, subdivision (a) of Section 6131, or all other applicable laws regarding confidentiality, including, but not limited to, the California Public Records Act, the Public Safety Officers' Procedural Bill of Rights, the Information Practices Act of 1977, the Confidentiality of Medical Information Act of 1977, and the provisions of Section 832.7, relating to the disposition notification for complaints against peace officers.

(2) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to any work that has not been completed.

(3) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to internal discussions between the *director and his or her staff, or any prior Inspector General and his or her staff, or between staff members of the Inspector General office or its predecessor*, or any personal notes of the *director or his or her staff, or his or her predecessor the Inspector General or his or her staff*.

(4) All identifying information, and any personal papers or correspondence from any person requesting assistance from the *Inspector General office or its predecessor*, except in those cases where the *Inspector General director* determines that disclosure of the information is necessary in the interests of justice.

(5) Any papers, correspondence, memoranda, electronic communications, or other documents pertaining to contemporaneous public oversight pursuant to Section 6133.

~~SEC. 9.~~

SEC. 12. Section 6126.4 of the Penal Code is amended to read:

6126.4. It is a misdemeanor for the ~~Inspector General~~ *director* or any employee or former employee of the ~~Inspector General~~

1 *Office of Independent Correctional Oversight* to divulge or make
2 known in any manner not expressly permitted by law to any person
3 not employed by the ~~Inspector General office~~ any particulars of
4 any record, document, or information the disclosure of which is
5 restricted by law from release to the public. This prohibition is
6 also applicable to any person or business entity that is contracting
7 with or has contracted with the ~~Inspector General office~~ and to the
8 employees and former employees of that person or business entity
9 or the employees of any state agency or public entity that has
10 assisted the ~~Inspector General office~~ in the course of its work or
11 that has been furnished a draft copy of any report for comment or
12 review.

13 ~~SEC. 10.~~

14 *SEC. 13.* Section 6126.5 of the Penal Code is amended to read:

15 6126.5. (a) Notwithstanding any other provision of law, the
16 ~~Inspector General~~ *Office of Independent Correctional Oversight*
17 during regular business hours or at any other time determined
18 necessary by the ~~Inspector General director~~, shall have access to
19 and authority to examine and reproduce any and all books,
20 accounts, reports, vouchers, correspondence files, documents, and
21 other records, and to examine the bank accounts, money, or other
22 property of the Department of Corrections and Rehabilitation for
23 any ~~audit, review, investigation, inspection, or other~~ work
24 authorized by this chapter. Any officer or employee of any agency
25 or entity having these records or property in his or her possession
26 or under his or her control shall permit access to, and examination
27 and reproduction thereof consistent with the provisions of this
28 section, upon the request of the ~~Inspector General~~ or his or her any
29 authorized representative *of the office*.

30 (b) For the purpose of conducting ~~any audit, review,~~
31 ~~investigation, inspection, or other~~ work authorized by this chapter,
32 the ~~Inspector General director~~ or his or her authorized
33 representative shall have access to the records and property of any
34 public or private entity or person subject to review or regulation
35 by the public agency or public entity being audited, investigated,
36 or overseen to the same extent that employees or officers of that
37 agency or public entity have access. No provision of law or any
38 memorandum of understanding or any other agreement entered
39 into between the employing entity and the employee or the
40 employee's representative providing for the confidentiality or

1 privilege of any records or property shall prevent disclosure
2 pursuant to subdivision (a). Access, examination, and reproduction
3 consistent with the provisions of this section shall not result in the
4 waiver of any confidentiality or privilege regarding any records
5 or property.

6 (c) Any officer or person who fails or refuses to permit access,
7 examination, or reproduction, as required by this section, is guilty
8 of a misdemeanor.

9 (d) ~~The Inspector General Office of Independent Correctional~~
10 *Oversight* may require any employee of the Department of
11 Corrections and Rehabilitation to be interviewed on a confidential
12 basis *concerning matters within the authority of the office*. Any
13 employee requested to be interviewed shall comply and shall have
14 time afforded by the appointing authority for the purpose of an
15 interview ~~with the Inspector General or his or her designee~~
16 *conducted pursuant to this subdivision*. ~~The Inspector General~~
17 *director* shall have the discretion to redact the name or other
18 identifying information of any person interviewed from any public
19 report issued by the ~~Inspector General Office of Independent~~
20 *Correctional Oversight*, where required by law or where the failure
21 to redact the information may hinder prosecution or an action in
22 a criminal, civil, or administrative proceeding, or where the
23 ~~Inspector General director~~ determines that disclosure of the
24 information is not in the interests of justice. It is not the purpose
25 of these communications to address disciplinary action or grievance
26 procedures that may routinely occur. If it appears that the facts of
27 the case could lead to punitive action, ~~the Inspector General office~~
28 shall be subject to Sections 3303, 3307, 3307.5, 3308, 3309, and
29 subdivisions (a) to (d), inclusive, of Section 3309.5 of the
30 Government Code as if the ~~Inspector General office~~ were the
31 employer, except that the ~~Inspector General office~~ shall not be
32 subject to the provisions of any memorandum of understanding or
33 other agreement entered into between the employing entity and
34 the employee or the employee's representative that is in conflict
35 with, or adds to the requirements of, Sections 3303, 3307, 3307.5,
36 3308, 3309, and subdivisions (a) to (d), inclusive, of Section 3309.5
37 of the Government Code.

38 ~~SEC. 11. Section 6126.6 of the Penal Code is amended to read:~~

39 ~~6126.6. (a) Prior to filling a vacancy for warden by~~
40 ~~appointment pursuant to Section 6050, or superintendent pursuant~~

1 to Section 1049 of the Welfare and Institutions Code, the Governor
2 shall first submit to the Inspector General the names of candidates
3 for the position of warden or superintendent for review of their
4 qualifications.

5 (b) Upon receipt of the names of those candidates and their
6 completed personal data questionnaires, the Inspector General
7 shall employ appropriate confidential procedures to evaluate and
8 determine the qualifications of each candidate with regard to his
9 or her ability to discharge the duties of the office to which the
10 appointment or nomination is made.

11 Within 90 days of submission by the Governor of those names,
12 the Inspector General shall advise in confidence to the Governor
13 his or her recommendation whether the candidate is exceptionally
14 well qualified, well qualified, qualified, or not qualified and the
15 reasons therefore, and may report, in confidence, any other
16 information that the Inspector General deems pertinent to the
17 qualifications of the candidate.

18 (c) In reviewing the qualifications of a candidate for the position
19 of warden or superintendent, the Inspector General shall consider,
20 among other appropriate factors, his or her experience in effectively
21 managing correctional facilities and inmate or ward populations;
22 ability to deal effectively with employees, detained persons and
23 other interested persons in addressing management, confinement,
24 and safety issues in an effective, fair, and professional manner;
25 and knowledge of correctional best practices.

26 (d) The Inspector General shall establish, adopt, and implement,
27 on or before December 31, 2012, regulations and procedures
28 regarding the review of the qualifications of candidates for the
29 position of warden or superintendent. Those regulations and
30 procedures shall establish appropriate, confidential methods for
31 disclosing to the candidate the subject matter of substantial and
32 credible adverse allegations received regarding the candidate's
33 reputation and integrity which, unless rebutted, would be
34 determinative of the candidate's unsuitability for appointment. No
35 rule or procedure shall be adopted that permits the disclosure to
36 the candidate of information from which the candidate may infer
37 the source, and no information shall either be disclosed to the
38 candidate nor be obtainable by any process which would jeopardize
39 the confidentiality of communications from persons whose opinion
40 has been sought on the candidate's qualifications.

1 ~~(e) All communications, written, verbal or otherwise, of and to~~
2 ~~the Governor, the Governor's authorized agents or employees;~~
3 ~~including, but not limited to, the Governor's Legal Affairs~~
4 ~~Secretary and Appointments Secretary, or of and to the Inspector~~
5 ~~General in furtherance of the purposes of this section are absolutely~~
6 ~~privileged from disclosure and confidential, and any~~
7 ~~communication made in the discretion of the Governor or the~~
8 ~~Inspector General with a candidate or person providing information~~
9 ~~in furtherance of the purposes of this section shall not constitute~~
10 ~~a waiver of the privilege or a breach of confidentiality.~~

11 ~~(f) When the Governor has appointed a person to the position~~
12 ~~of warden or superintendent who has been found not qualified by~~
13 ~~the Inspector General, the Inspector General shall make public~~
14 ~~that finding, after due notice to the appointee of his or her intention~~
15 ~~to do so. That notice and disclosure shall not constitute a waiver~~
16 ~~of privilege or breach of confidentiality with respect to~~
17 ~~communications of or to the Inspector General concerning the~~
18 ~~qualifications of the appointee.~~

19 ~~(g) No person or entity shall be liable for any injury caused by~~
20 ~~any act or failure to act, be it negligent, intentional, discretionary,~~
21 ~~or otherwise, in the furtherance of the purposes of this section,~~
22 ~~including, but not limited to, providing or receiving any~~
23 ~~information, making any recommendations, and giving any reasons~~
24 ~~therefore.~~

25 ~~(h) As used in this section, the term "Inspector General" includes~~
26 ~~employees and agents of the Office of the Inspector General.~~

27 ~~(i) At any time prior to the receipt of the review from the~~
28 ~~Inspector General specified in subdivision (b), the Governor may~~
29 ~~withdraw the name of any person submitted to the Inspector~~
30 ~~General for evaluation pursuant to this section.~~

31 ~~(j) No candidate for the position of warden or superintendent~~
32 ~~may be appointed until the Inspector General has advised the~~
33 ~~Governor pursuant to this section, or until 90 days have elapsed~~
34 ~~after submission of the candidate's name to the Inspector General,~~
35 ~~whichever occurs earlier. The requirement of this subdivision shall~~
36 ~~not apply to any vacancy in the position of warden or~~
37 ~~superintendent occurring within the 90 days preceding the~~
38 ~~expiration of the Governor's term of office, provided, however,~~
39 ~~that with respect to those vacancies, the Governor shall be required~~
40 ~~to submit any candidate's name to the Inspector General in order~~

1 to provide him or her an opportunity, if time permits, to review
2 and make a report.

3 ~~(k) Nothing in this section shall be construed as imposing an~~
4 ~~additional requirement for an appointment or nomination to the~~
5 ~~position of warden or superintendent, nor shall anything in this~~
6 ~~section be construed as adding any additional qualifications for~~
7 ~~the position of warden or superintendent.~~

8 *SEC. 14. Section 6126.6 of the Penal Code is repealed.*

9 ~~6126.6. (a) Prior to filling a vacancy for warden by~~
10 ~~appointment pursuant to Section 6050, or superintendent pursuant~~
11 ~~to Section 1049 of the Welfare and Institutions Code, the Governor~~
12 ~~shall first submit to the Inspector General the names of candidates~~
13 ~~for the position of warden or superintendent for review of their~~
14 ~~qualifications.~~

15 ~~(b) Upon receipt of the names of those candidates and their~~
16 ~~completed personal data questionnaires, the Inspector General~~
17 ~~shall employ appropriate confidential procedures to evaluate and~~
18 ~~determine the qualifications of each candidate with regard to his~~
19 ~~or her ability to discharge the duties of the office to which the~~
20 ~~appointment or nomination is made.~~

21 ~~Within 90 days of submission by the Governor of those names,~~
22 ~~the Inspector General shall advise in confidence to the Governor~~
23 ~~his or her recommendation whether the candidate is exceptionally~~
24 ~~well-qualified, well-qualified, qualified, or not qualified and the~~
25 ~~reasons therefore, and may report, in confidence, any other~~
26 ~~information that the Inspector General deems pertinent to the~~
27 ~~qualifications of the candidate.~~

28 ~~(c) In reviewing the qualifications of a candidate for the position~~
29 ~~of warden or superintendent, the Inspector General shall consider,~~
30 ~~among other appropriate factors, his or her experience in effectively~~
31 ~~managing correctional facilities and inmate or ward populations;~~
32 ~~ability to deal effectively with employees, detained persons and~~
33 ~~other interested persons in addressing management, confinement,~~
34 ~~and safety issues in an effective, fair, and professional manner;~~
35 ~~and knowledge of correctional best practices.~~

36 ~~(d) The Inspector General shall establish and adopt rules and~~
37 ~~procedures regarding the review of the qualifications of candidates~~
38 ~~for the position of warden or superintendent. Those rules and~~
39 ~~procedures shall establish appropriate, confidential methods for~~
40 ~~disclosing to the candidate the subject matter of substantial and~~

1 ~~credible adverse allegations received regarding the candidate's~~
2 ~~reputation and integrity which, unless rebutted, would be~~
3 ~~determinative of the candidate's unsuitability for appointment. No~~
4 ~~rule or procedure shall be adopted that permits the disclosure to~~
5 ~~the candidate of information from which the candidate may infer~~
6 ~~the source, and no information shall either be disclosed to the~~
7 ~~candidate nor be obtainable by any process which would jeopardize~~
8 ~~the confidentiality of communications from persons whose opinion~~
9 ~~has been sought on the candidate's qualifications.~~

10 ~~(e) All communications, written, verbal or otherwise, of and to~~
11 ~~the Governor, the Governor's authorized agents or employees,~~
12 ~~including, but not limited to, the Governor's Legal Affairs~~
13 ~~Secretary and Appointments Secretary, or of and to the Inspector~~
14 ~~General in furtherance of the purposes of this section are absolutely~~
15 ~~privileged from disclosure and confidential, and any~~
16 ~~communication made in the discretion of the Governor or the~~
17 ~~Inspector General with a candidate or person providing information~~
18 ~~in furtherance of the purposes of this section shall not constitute~~
19 ~~a waiver of the privilege or a breach of confidentiality.~~

20 ~~(f) When the Governor has appointed a person to the position~~
21 ~~of warden or superintendent who has been found not qualified by~~
22 ~~the Inspector General, the Inspector General shall make public~~
23 ~~that finding, after due notice to the appointee of his or her intention~~
24 ~~to do so. That notice and disclosure shall not constitute a waiver~~
25 ~~of privilege or breach of confidentiality with respect to~~
26 ~~communications of or to the Inspector General concerning the~~
27 ~~qualifications of the appointee.~~

28 ~~(g) No person or entity shall be liable for any injury caused by~~
29 ~~any act or failure to act, be it negligent, intentional, discretionary,~~
30 ~~or otherwise, in the furtherance of the purposes of this section,~~
31 ~~including, but not limited to, providing or receiving any~~
32 ~~information, making any recommendations, and giving any reasons~~
33 ~~therefore.~~

34 ~~(h) As used in this section, the term "Inspector General" includes~~
35 ~~employees and agents of the Office of the Inspector General.~~

36 ~~(i) At any time prior to the receipt of the review from the~~
37 ~~Inspector General specified in subdivision (b), the Governor may~~
38 ~~withdraw the name of any person submitted to the Inspector~~
39 ~~General for evaluation pursuant to this section.~~

~~(j) No candidate for the position of warden or superintendent may be appointed until the Inspector General has advised the Governor pursuant to this section, or until 90 days have elapsed after submission of the candidate's name to the Inspector General, whichever occurs earlier. The requirement of this subdivision shall not apply to any vacancy in the position of warden or superintendent occurring within the 90 days preceding the expiration of the Governor's term of office, provided, however, that with respect to those vacancies, the Governor shall be required to submit any candidate's name to the Inspector General in order to provide him or her an opportunity, if time permits, to review and make a report.~~

~~(k) Nothing in this section shall be construed as imposing an additional requirement for an appointment or nomination to the position of warden or superintendent, nor shall anything in this section be construed as adding any additional qualifications for the position of warden or superintendent.~~

~~(l) Wardens who have been appointed but not yet confirmed as of July 1, 2005, need not be reappointed to the position after that date, but are subject to the review process provided in this section.~~

~~SEC. 12.~~

~~SEC. 15.~~ Section 6127.1 of the Penal Code is repealed.

~~SEC. 13.~~

~~SEC. 16.~~ Section 6127.3 of the Penal Code is amended to read:

6127.3. (a) In connection with his or her duties authorized pursuant to this chapter, the ~~Inspector General, or his or her designee,~~ *Office of Independent Correctional Oversight* may do any of the following:

(1) Administer oaths.

(2) Certify to all official acts.

(3) Issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, or documents in any medium, or for the making of oral or written sworn statements, in any investigative interview conducted pursuant to duties authorized by this chapter.

(b) Any subpoena issued under this chapter extends as process to all parts of the state and may be served by any person authorized to serve process of courts of record or by any person designated for that purpose by the ~~Inspector General, or his or her designee~~ *office*. The person serving this process may receive compensation

1 as is allowed by the ~~Inspector General, or his or her designee~~ *office*,
2 not to exceed the fees prescribed by law for similar service.

3 ~~SEC. 14.~~

4 *SEC. 17.* Section 6127.4 of the Penal Code is amended to read:

5 6127.4. (a) The superior court in the county in which any
6 interview is held under the direction of the ~~Inspector General or~~
7 ~~his or her designee~~ *Office of Independent Correctional Oversight*
8 pursuant to duties authorized by this chapter has jurisdiction to
9 compel the attendance of witnesses, the making of oral or written
10 sworn statements, and the production of papers, books, accounts,
11 and documents, as required by any subpoena issued by the
12 ~~Inspector General or his or her designee~~ *office*.

13 (b) If any witness refuses to attend or testify or produce any
14 papers required by the subpoena, the ~~Inspector General or his or~~
15 ~~her designee~~ *Office of Independent Correctional Oversight* may
16 petition the superior court in the county in which the hearing is
17 pending for an order compelling the person to attend and answer
18 questions under penalty of perjury or produce the papers required
19 by the subpoena before the person named in the subpoena. The
20 petition shall set forth all of the following:

21 (1) That due notice of the time and place of attendance of the
22 person or the production of the papers has been given.

23 (2) That the person has been subpoenaed in the manner
24 prescribed in this chapter.

25 (3) That the person has failed and refused to attend or produce
26 the papers required by subpoena before the ~~Inspector General or~~
27 ~~his or her designee~~ *office* as named in the subpoena, or has refused
28 to answer questions propounded to him or her in the course of the
29 interview under penalty of perjury.

30 (c) Upon the filing of the petition, the court shall enter an order
31 directing the person to appear before the court at a specified time
32 and place and then and there show cause why he or she has not
33 attended, answered questions under penalty of perjury, or produced
34 the papers as required. A copy of the order shall be served upon
35 him or her. If it appears to the court that the subpoena was regularly
36 issued by the ~~Inspector General or his or her designee~~ *Office of*
37 *Independent Correctional Oversight*, the court shall enter an order
38 that the person appear before the person named in the subpoena
39 at the time and place fixed in the order and answer questions under
40 penalty of perjury or produce the required papers. Upon failure to

1 obey the order, the person shall be dealt with as for contempt of
2 court.

3 ~~SEC. 15. Section 6127.5 is added to the Penal Code, to read:~~

4 ~~6127.5. (a) The Inspector General shall conduct, report on,~~
5 ~~and track the resolution of, financial and performance audits of~~
6 ~~the Department of Corrections and Rehabilitation's programs and~~
7 ~~functions. Financial audits shall examine financial statements,~~
8 ~~financially related activities, and monitor expenditures made under~~
9 ~~the department's contracts, grants, and other agreements.~~
10 ~~Performance audits shall review the practices and programs of the~~
11 ~~department to determine whether the department is managing its~~
12 ~~resources in an effective, economical, and efficient manner~~
13 ~~consistent with evidence-based correctional practices and public~~
14 ~~safety. Financial and performance audits conducted pursuant to~~
15 ~~this section shall be conducted in accordance with professional~~
16 ~~auditing standards and shall include recommended actions to~~
17 ~~correct deficiencies.~~

18 ~~(b) The Inspector General shall conduct special reviews and~~
19 ~~assessments of the department's programs and activities using~~
20 ~~methods other than traditional audit and investigative disciplines.~~
21 ~~These assessments and special reviews shall be limited to both of~~
22 ~~the following:~~

23 ~~(1) The department's operations and programs with respect to~~
24 ~~how they can be more efficient, more economical, and more~~
25 ~~effective in furtherance of public safety and evidence-based~~
26 ~~correctional practices.~~

27 ~~(2) The rules, regulations, and policies under which the~~
28 ~~department operates, and how they can be revised to reduce~~
29 ~~redundancies or otherwise improve the department's operations~~
30 ~~in a manner consistent with the purposes of this chapter.~~

31 ~~(c) The Inspector General shall inspect all correctional, medical,~~
32 ~~and other facilities of the Department of Corrections and~~
33 ~~Rehabilitation.~~

34 ~~(d) The Inspector General shall advise the Department of~~
35 ~~Corrections and Rehabilitation, the Governor, and the Legislature~~
36 ~~in the development of performance measures, standards, and~~
37 ~~procedures for the evaluation of department programs. The~~
38 ~~Inspector General shall assess the reliability and validity of the~~
39 ~~information provided by the department on performance measures~~

1 and standards, and make recommendations for improvement where
2 necessary.

3 ~~(e) The Secretary of the Department of Corrections and~~
4 ~~Rehabilitation, the Governor, or a member of the Legislature may~~
5 ~~request an audit, review, or inspection authorized by this section.~~
6 ~~The Inspector General also may initiate an audit, review, or~~
7 ~~inspection authorized by this section.~~

8 ~~(f) The Inspector General shall coordinate audits, reviews, and~~
9 ~~inspections authorized by this section, and shall facilitate~~
10 ~~cooperation with external agencies, including, but not limited to,~~
11 ~~the Bureau of State Audits and the Little Hoover Commission.~~

12 ~~(g) On or before December 31, 2012, the Inspector General~~
13 ~~shall adopt regulations and procedures for determining how the~~
14 ~~issues before the Inspector General shall be considered and selected~~
15 ~~for audit, special review, inspection, or advisement as authorized~~
16 ~~by this section. These regulations and procedures shall include,~~
17 ~~but not be limited to, both of the following:~~

18 ~~(1) Intake procedures, including timeframes within which~~
19 ~~communications shall be documented, referred, assessed, and,~~
20 ~~where appropriate, investigated, or otherwise addressed.~~

21 ~~(2) Uniform standards and benchmarks for identifying and~~
22 ~~selecting issues for audit, special review, inspection, or advisement.~~

23 ~~(h) Regulations and procedures adopted pursuant to subdivision~~
24 ~~(g) shall include criteria for opening and conducting audits,~~
25 ~~reviews, and inspections of significant correctional issues,~~
26 ~~including, but not limited to, all of the following:~~

27 ~~(1) Security procedures, including contraband interdiction.~~

28 ~~(2) Employee hiring, retention, and training.~~

29 ~~(3) Inmate, ward, and parolee classification procedures.~~

30 ~~(4) Inmate, ward, and parolee administrative appeals and~~
31 ~~grievances.~~

32 ~~(5) Employee use of force.~~

33 ~~(6) Prison Rape Elimination Act procedures.~~

34 ~~(7) Inmate-patient health care delivery.~~

35 ~~(8) Fiscal controls for contracts and grants.~~

36 ~~(9) Informational technology.~~

37 ~~(i) (1) Notwithstanding Section 10231.5 of the Government~~
38 ~~Code, upon the completion of any audit, review, or inspection, the~~
39 ~~Inspector General shall prepare a written report, which shall be~~
40 ~~disclosed, along with all underlying materials the Inspector General~~

1 deems appropriate, to the Governor, the secretary of the
2 department, the appropriate director, chair, or law enforcement
3 agency, and the Legislature. Copies of all written reports shall be
4 posted on the Inspector General's Internet Web site within 10 days
5 of being disclosed to the above listed entities or persons.

6 (2) A report submitted pursuant to this subdivision shall be
7 submitted in compliance with Section 9795 of the Government
8 Code.

9 SEC. 16. Section 6127.6 is added to the Penal Code, to read:

10 6127.6. (a) The Inspector General may conduct investigations
11 concerning all of the following:

12 (1) Improper government activity, as defined in subdivision (b)
13 of Section 8547.2 of the Government Code.

14 (2) The circumstances surrounding the death of any individual
15 in the physical custody of the Department of Corrections and
16 Rehabilitation.

17 (3) The circumstances surrounding the death of any person not
18 in the physical custody of the Department of Corrections and
19 Rehabilitation allegedly caused by an inmate or ward.

20 (b) On or before December 31, 2012, the Inspector General
21 shall adopt regulations and procedures for determining how
22 investigations conducted pursuant to this section shall be
23 considered and selected.

24 (c) Upon the completion of an investigation conducted pursuant
25 to this section, the Inspector General shall prepare a written report,
26 which shall be disclosed, along with all underlying materials the
27 Inspector General deems appropriate, in accordance with the
28 provisions set forth in subdivision (i) of Section 6127.5.

29 SEC. 17. Section 6128 of the Penal Code is amended to read:

30 6128. (a) The Office of the Inspector General shall accept and
31 assess communications from any individual, including those
32 employed by any department, board, or authority who believes he
33 or she may have information that may describe an improper
34 governmental activity, as that term is defined in subdivision (b)
35 of Section 8547.2 of the Government Code. It is not the purpose
36 of this section to provide for the redress of any single disciplinary
37 action or grievance that may routinely occur.

38 (b) In order to properly respond to any allegation of improper
39 governmental activity, the Inspector General shall establish a
40 toll-free public telephone number for the purpose of identifying

1 any alleged wrongdoing by an employee of the Department of
2 Corrections and Rehabilitation. This telephone number shall be
3 posted by the department in clear view of all employees and the
4 public.

5 (e) When appropriate, the Inspector General shall initiate an
6 investigation of any alleged improper governmental activity as
7 authorized by this chapter.

8 (d) All identifying information, and any personal papers or
9 correspondence from any person who initiated the investigation
10 shall not be disclosed, except in those cases where the Inspector
11 General determines that disclosure of the information is necessary
12 in the interests of justice.

13 (e) On or before December 31, 2012, the Inspector General shall
14 adopt regulations and procedures for determining how
15 communications subject to this section shall be considered and
16 selected for review or investigation, as authorized by this section.
17 These regulations and procedures shall include, but not be limited
18 to, those enumerated in subdivision (g) of Section 6127.5.

19 *SEC. 18. Section 6128 of the Penal Code is repealed.*

20 6128. (a) The Office of the Inspector General may receive
21 communications from any individual, including those employed
22 by any department, board, or authority who believes he or she may
23 have information that may describe an improper governmental
24 activity, as that term is defined in subdivision (b) of Section 8547.2
25 of the Government Code. It is not the purpose of these
26 communications to redress any single disciplinary action or
27 grievance that may routinely occur.

28 (b) In order to properly respond to any allegation of improper
29 governmental activity, the Inspector General shall establish a
30 toll-free public telephone number for the purpose of identifying
31 any alleged wrongdoing by an employee of the Department of
32 Corrections and Rehabilitation. This telephone number shall be
33 posted by the department in clear view of all employees and the
34 public. When appropriate, the Inspector General shall initiate an
35 investigation or audit of any alleged improper governmental
36 activity. However, any request to conduct an investigation shall
37 be in writing.

38 (c) All identifying information, and any personal papers or
39 correspondence from any person who initiated the investigation
40 shall not be disclosed, except in those cases where the Inspector

1 ~~General determines that disclosure of the information is necessary~~
2 ~~in the interests of justice.~~

3 ~~SEC. 18.~~

4 ~~SEC. 19.~~ Section 6129 of the Penal Code is repealed.

5 ~~SEC. 19.~~

6 ~~SEC. 20.~~ Section 6131 of the Penal Code is amended to read:

7 6131. (a) Upon the completion of any ~~investigation~~ *oversight*
8 *review* conducted by the ~~Inspector General, he or she~~ *Office of*
9 *Independent Correctional Oversight, the office* shall prepare a
10 complete written report, which shall be held as confidential and
11 disclosed in confidence, along with all underlying investigative
12 materials the ~~Inspector General~~ *office* deems appropriate, to the
13 Governor, the Secretary of the Department of Corrections and
14 Rehabilitation, and the appropriate director, chairperson, or law
15 enforcement agency.

16 (b) Upon the completion of any ~~investigation~~ *oversight review* conducted by the
17 ~~Inspector General, he or she~~ *Office of Independent Correctional Oversight, the office* shall also
18 prepare and issue on a quarterly basis a public ~~investigative~~ report
19 that includes all ~~investigations~~ *oversight reviews* completed in the
20 previous quarter. The public ~~investigative~~ report shall differ from
21 the complete ~~investigative~~ report in the respect that the ~~Inspector~~
22 ~~General~~ *Office of Independent Correctional Oversight* shall have
23 the discretion to redact or otherwise protect the names of
24 individuals, specific locations, or other facts that, if not redacted,
25 might hinder *any related* prosecution ~~related to the investigation,~~
26 or where disclosure of the information is otherwise prohibited by
27 law, and to decline to produce any of the underlying ~~investigative~~
28 materials. In a case where allegations were deemed to be
29 unfounded, all applicable identifying information shall be redacted.
30 The public ~~investigative~~ report shall be made available to the public
31 upon request and on a quarterly basis as follows:

32 (1) In those cases where ~~an investigation~~ *a report* is referred
33 only for disciplinary action before the State Personnel Board or
34 for other administrative proceedings, the employing entity shall,
35 within 10 days of receipt of the State Personnel Board's order
36 rendered in other administrative proceedings, provide the ~~Inspector~~
37 ~~General~~ *Office of Independent Correctional Oversight* with a copy
38 of the order. The ~~Inspector General~~ *office* shall attach the order to
39 the public ~~investigative~~ report on his or her Internet Web site and
40

1 provide copies of the report and order to the Legislature, as well
2 as to any complaining employee and any employee who was the
3 subject of the ~~investigation~~ review.

4 (2) In those cases where the employing entity and the employee
5 against whom disciplinary action has been taken enter into a
6 settlement agreement concerning the disciplinary action, the
7 employing entity shall, within 10 days of the settlement agreement
8 becoming final, notify the ~~Inspector General~~ *Office of Independent*
9 *Correctional Oversight* in writing of that fact and shall describe
10 what disciplinary action, if any, was ultimately imposed on the
11 employee. The ~~Inspector General~~ *Office of Independent*
12 *Correctional Oversight* shall include the settlement information
13 in the public investigative report on his or her *its* Internet Web site
14 and provide copies of the report to the Legislature, as well as to
15 any complaining employee and any employee who was the subject
16 of the ~~investigation~~ review.

17 (3) In those cases where the employing entity declines to pursue
18 disciplinary action against an employee, the employing entity shall,
19 within 10 days of its decision, notify the ~~Inspector General~~ *Office*
20 *of Independent Correctional Oversight* in writing of its decision
21 not to pursue disciplinary action, setting forth the reasons for its
22 decision. The ~~Inspector General~~ *office* shall include the decision
23 and rationale in the public investigative report on his or her Internet
24 Web site and provide copies of the report to the Legislature, as
25 well as to any complaining employee and any employee who was
26 the subject of the ~~investigation~~ review.

27 (4) In those cases where ~~an investigation~~ *a report* has been
28 referred for possible criminal prosecution, and the applicable local
29 law enforcement agency or the Attorney General has decided to
30 commence criminal proceedings against an employee, the report
31 shall be made public at a time deemed appropriate by the ~~Inspector~~
32 ~~General~~ *Office of Independent Correctional Oversight* after
33 consultation with the local law enforcement agency or the Attorney
34 General, but in all cases no later than when discovery has been
35 provided to the defendant in the criminal proceedings. The
36 ~~Inspector General~~ *office* shall thereafter post the public
37 investigative report on his or her *its* Internet Web site and provide
38 copies of the report to the Legislature, as well as to any
39 complaining employee and any employee who was the subject of
40 the ~~investigation~~ review.

(5) In those cases where the local law enforcement agency or the Attorney General declines to commence criminal proceedings against an employee, the local law enforcement agency or the Attorney General shall, within 30 days of reaching that decision, notify the ~~Inspector General~~ *Office of Independent Correctional Oversight* of that fact. The ~~Inspector General~~ *office* shall include the decision in the public ~~investigative~~ report on ~~his or her~~ *its* Internet Web site and provide copies of the report to the Legislature, as well as to any complaining employee and any employee who was the subject of the ~~investigation~~ *review*.

(6) In those cases where ~~an investigation~~ *a report* has been referred for neither disciplinary action or other administrative proceedings, nor for criminal prosecution, the ~~Inspector General~~ *Office of Independent Correctional Oversight* shall include the decision not to refer the matter in the public ~~investigative~~ report on ~~his or her~~ *its* Internet Web site and provide copies of the report to the Legislature, as well as to any complaining employee and any employee who was the subject of the ~~investigation~~ *review*.

~~SEC. 20.~~

SEC. 21. Section 6132 of the Penal Code is amended to read:
6132. (a) Notwithstanding Section 10231.5 of the Government Code, the ~~Inspector General~~ *Office of Independent Correctional Oversight* shall report annually to the Governor and the Legislature a summary of ~~his or her investigations~~ *its reports*. The summary shall be posted on the ~~Inspector General's office's~~ *Internet Web* site and otherwise made available to the public upon its release to the Governor and the Legislature. The summary shall include, but not be limited to, significant problems discovered by the ~~Inspector General~~ *office*, and whether recommendations the ~~Inspector General~~ *office* has made have been implemented.

(b) A report pursuant to subdivision (a) shall be submitted in compliance with Section 9795 of the Government Code.

~~SEC. 21.~~ Section 6133 of the Penal Code is amended to read:
6133. (a) ~~There is created within the Office of the Inspector General a Bureau of Independent Review (BIR), which shall be subject to the direction of the Inspector General.~~

(b) ~~The BIR shall be responsible for contemporaneous public oversight of the investigations conducted by the Department of Corrections and Rehabilitation. The BIR shall also be responsible for advising the public regarding the adequacy of each~~

1 investigation, and whether discipline of the subject of the
2 investigation is warranted. The BIR shall have discretion to provide
3 public oversight of other Department of Corrections and
4 Rehabilitation personnel investigations as needed.

5 (e) (1) Notwithstanding Section 10231.5 of the Government
6 Code, the BIR shall issue regular reports, no less than annually,
7 to the Governor and the Legislature summarizing its
8 recommendations concerning its oversight of the Department of
9 Corrections and Rehabilitation allegations of internal misconduct
10 and use of force. The BIR shall also issue regular reports, no less
11 than semiannually, summarizing its oversight of the Department
12 of Corrections and Rehabilitation investigations pursuant to
13 subdivision (b). The reports shall include, but not be limited to,
14 the following:

15 (A) Data on the number, type, and disposition of complaints
16 made against correctional officers and staff.

17 (B) A synopsis of each matter reviewed by the BIR.

18 (C) An assessment of the quality of the investigation, the
19 appropriateness of any disciplinary charges, the BIR's
20 recommendations regarding the disposition in the case and when
21 founded, the level of discipline afforded, and the degree to which
22 the agency's authorities agreed with the BIR recommendations
23 regarding disposition and level of discipline.

24 (D) The report of any settlement and whether the BIR concurred
25 with the settlement.

26 (E) The extent to which any discipline was modified after
27 imposition.

28 (2) The reports shall be in a form which does not identify the
29 agency employees involved in the alleged misconduct.

30 (3) The reports shall be posted on the Inspector General's Web
31 site and otherwise made available to the public upon their release
32 to the Governor and the Legislature.

33 (4) A report pursuant to this subdivision shall be submitted in
34 compliance with Section 9795 of the Government Code.

35 *SEC. 22. Section 6133 of the Penal Code is repealed.*

36 6133. (a) There is created within the Office of the Inspector
37 General a Bureau of Independent Review (BIR), which shall be
38 subject to the direction of the Inspector General.

39 (b) The BIR shall be responsible for contemporaneous public
40 oversight of the Department of Corrections and Rehabilitation

1 investigations conducted by the Department of Corrections and
2 Rehabilitation's Office of Internal Affairs. The BIR shall also be
3 responsible for advising the public regarding the adequacy of each
4 investigation, and whether discipline of the subject of the
5 investigation is warranted. The BIR shall have discretion to provide
6 public oversight of other Department of Corrections and
7 Rehabilitation personnel investigations as needed.

8 (c) (1) The BIR shall issue regular reports, no less than annually,
9 to the Governor and the Legislature summarizing its
10 recommendations concerning its oversight of the Department of
11 Corrections and Rehabilitation allegations of internal misconduct
12 and use of force. The BIR shall also issue regular reports, no less
13 than semiannually, summarizing its oversight of Office of Internal
14 Affairs investigations pursuant to subdivision (b). The reports shall
15 include, but not be limited to, the following:

16 (A) Data on the number, type, and disposition of complaints
17 made against correctional officers and staff.

18 (B) A synopsis of each matter reviewed by the BIR.

19 (C) An assessment of the quality of the investigation, the
20 appropriateness of any disciplinary charges, the BIR's
21 recommendations regarding the disposition in the case and when
22 founded, the level of discipline afforded, and the degree to which
23 the agency's authorities agreed with the BIR recommendations
24 regarding disposition and level of discipline.

25 (D) The report of any settlement and whether the BIR concurred
26 with the settlement.

27 (E) The extent to which any discipline was modified after
28 imposition.

29 (2) The reports shall be in a form which does not identify the
30 agency employees involved in the alleged misconduct.

31 (3) The reports shall be posted on the Inspector General's Web
32 site and otherwise made available to the public upon their release
33 to the Governor and the Legislature.

34 SEC. 23. Section 6140 of the Penal Code is amended to read:

35 6140. There is in the Office of the Inspector General
36 Independent Correctional Oversight the California Rehabilitation
37 Oversight Board (C-ROB). The board shall consist of the 12
38 members as follows:

39 (a) The Inspector General Director of the Office of Independent
40 Correctional Oversight, who shall serve as chair.

1 (b) The Secretary of the Department of Corrections and
2 Rehabilitation, *or his or her designee*.

3 (c) The Superintendent of Public Instruction, or his or her
4 designee.

5 (d) The Chancellor of the California Community Colleges, or
6 his or her designee.

7 (e) The Director of the State Department of Alcohol and Drug
8 Programs, or his or her designee.

9 (f) The Director of Mental Health, or his or her designee.

10 (g) A faculty member of the University of California who has
11 expertise in rehabilitation of criminal offenders, appointed by the
12 President of the University of California.

13 (h) A faculty member of the California State University, who
14 has expertise in rehabilitation of criminal offenders, appointed by
15 the Chancellor of the California State University.

16 (i) A county sheriff, appointed by the Governor.

17 (j) A county chief probation officer, appointed by the Senate
18 Committee on Rules.

19 (k) A local government official who provides mental health,
20 substance abuse, or educational services to criminal offenders,
21 appointed by the Speaker of the Assembly.

22 (l) *The State Auditor*.

23 ~~SEC. 22.~~

24 *SEC. 24.* No reimbursement is required by this act pursuant to
25 Section 6 of Article XIII B of the California Constitution because
26 the only costs that may be incurred by a local agency or school
27 district will be incurred because this act creates a new crime or
28 infraction, eliminates a crime or infraction, or changes the penalty
29 for a crime or infraction, within the meaning of Section 17556 of
30 the Government Code, or changes the definition of a crime within
31 the meaning of Section 6 of Article XIII B of the California
32 Constitution.